

**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.2.1  
Eastern Division**

Jeffrey Modica, et al.

Plaintiff,

v.

Case No.: 1:14-cv-03308

Honorable Sharon Johnson Coleman

Green Tree Servicing LLC

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Tuesday, March 6, 2018:

MINUTE entry before the Honorable Sharon Johnson Coleman: On May 6, 2014, Plaintiffs, Jeffrey R. Modica and Katarzyna A Modica sued Defendant, Green Tree Servicing, LLC ("Green Tree") for violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 ("TCPA") and the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/10a ("ICFA") because Green Tree repeatedly called Plaintiffs' cell phones in an attempt to collect a consumer debt. On April 29, 2015, the Court entered a Memorandum and Order ("2015 Order") [51] granting Green Tree's Motion for Summary Judgment on the TCPA claim. The 2015 Order concluded that Defendant's "click-to-dial" system did not qualify as an automatic telephone dialing system ("autodialer") that would violate the TCPA. In July of 2017, after the case was reassigned, Plaintiff was granted leave to re-file its Motion to Vacate. Plaintiffs asked the Court to reconsider the portion of the 2015 Order unfavorable to them based on a declaratory ruling from the Federal Communications Commission ("FCC") that reinterpreted what constitutes an "autodialer". In Re Rules & Regulations Implementing the Telephone Consumer Protection Act of 1991, 30 FCC Rcd. 7961 (July 10, 2015) ("FCC Ruling"). After numerous stays and changes of counsel, the matter was fully briefed on March 2, 2018. After reviewing the 2015 Order, the FCC Ruling, and the arguments presented by both sides, this Court is not convinced that the circumstances warrant vacating the previous judge's ruling. The central issue here is whether the FCC Ruling's characterization of capacity changes what can be construed as an unlawful "autodialer", and whether that expansive reading would now capture Defendant's "click-to-dial" system. Considering the precedent in this district, particularly Messina v. Green Tree Servicing, Ltd. Liab. Co., which considered Green Tree's same "click-to-dial" system in light of the FCC ruling, this Court agrees with the 2015 Order that the "click-to-dial" system is not an autodialer in violation of the TCPA. 210 F. Supp. 3d 992 (N.D. Ill. 2016) (Lefkow, J.). Consequently, Plaintiffs' Motion to Vacate [75] is denied. Mailed notice. (ym, )

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